

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

NANCY J. CLINE, et al.
Plaintiffs

v.

JOHN JAMES CHRISTY,
et al.
Defendants

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Civil Action No. JKB-03-529

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ORDER

On March 17, 2004, Plaintiffs filed a Bill of Costs following entry of judgment in their favor in this personal injury action. Jurisdiction in this Court is based on diversity of citizenship. See 28 U.S.C. §1332. Plaintiffs seek a total of \$1,711.43 for: 1) deposition transcripts and a deposition video; 2) service of process fees; 3) witness mileage fees and; 3) an attorney docket fee. This motion is unopposed and ripe for review.

Deposition Transcripts

The cost of deposition transcripts may be taxed if reasonably necessary to the party's case in light of the particular situation existing at the time of taking. In this district, the Clerk's authority to tax the cost of a deposition is limited to the reasonable cost of deposing the parties, depositions of persons who testify at trial, depositions admitted into evidence, and depositions which are submitted in connection with the event which terminated the litigation. See Taxation of Costs in a Civil Case in the United States District Court for the District of Maryland at II.C.4.b. (D. Md. 2002). The Clerk does not tax the costs of depositions taken for the purpose of discovery or trial preparation. See id. Additionally, costs for shipping and delivery charges may not be taxed. See Taxation of Costs, II.C.4.d.ii. Plaintiffs have submitted receipts for the cost of

deposing the following individuals: Dr. Herman Miller, Plaintiff's expert economist; John James Christy, defendant; Maryland State Police Corporal Benjamin M. Townes, Jr.; Maryland State Police Officer Robert Fraley; John E. Herko, witness; Nancy Cline, plaintiff; and Josh Cline, plaintiff.

Dr. Herman Miller

Plaintiff requests \$448.85 for costs incurred to obtain a stenographic transcription and video of Dr. Miller's deposition. The receipts submitted for the video total \$212.00. The charges submitted for the stenographic transcription total \$236.85 and include a \$10.85 fee for shipping and handling. Plaintiffs contend that the video was necessary to convey the witness to the jury, and the transcript was necessary to assist the parties in editing and producing the final video tape which was played at trial. The video of the deposition was played to the jury at trial. Dr. Miller did not testify in person at trial.

The determination whether to tax the cost of a video deposition is made on a case by case basis. Generally, the Clerk will not tax the costs of both a video deposition and a transcript. See Taxation of Costs at II C.4.e. In this case, the video was used to introduce Dr. Miller's testimony at trial, and the video costs are taxable in the amount of \$212.00. The cost of the stenographic transcript, however, may not be taxed because it was obtained primarily for trial preparation, i.e. preparation of the videotape.

John James Christy

Plaintiffs request taxation in the amount of \$199.00 which includes a \$10.00 fee for shipping and handling. The costs to obtain the deposition of a party are taxable. However, the costs of shipping and handling are not taxable. See Taxation of Costs, II.C.4.d.ii. Accordingly,

this cost may be taxed in the amount of \$189.00.

Corporal Benjamin M. Townes, Jr.

Corporal Townes was unavailable to testify at trial because he was on active military duty. His deposition was the sole source of his testimony presented at trial. The costs to obtain a transcript of his deposition are fully taxable in the amount of \$210.00. The shipping and handling charges submitted are not taxable. See Taxation of Costs, II.C.4.d.ii.

TFC Robert Fraley

Maryland State Trooper Fraley testified at trial, and the costs to obtain a transcription of his deposition are fully taxable in the amount of \$185.00. The shipping and handling charges submitted are not taxable. See Taxation of Costs, II.C.4.d.ii.

John Edward Herko

Mr. Herko testified at trial and the costs to obtain his deposition transcript are fully taxable in the amount of \$105.00. The delivery charges submitted are not taxable. See Taxation of Costs, II.C.4.d.ii.

Nancy Cline

The cost of plaintiff Nancy Cline's deposition transcript is reasonable and fully taxable in the amount of \$160.00. The delivery charges submitted are not taxable.

Josh Cline

The cost of plaintiff Josh Cline's deposition transcript is reasonable and fully taxable in the amount of \$132.50. The delivery charges submitted are not taxable.

Process Server Fees

Reasonable fees paid to private process servers may be recoverable. Generally, the Clerk

will tax reasonable service fees for summonses for witnesses who actually testified at trial. See Taxation of Costs, II.C.3.a and b.

TFC Robert Fraley

The cost to serve this witness is fully taxable in the amount of \$45.00.

John Edward Herko

The cost to serve this witness is fully taxable in the amount of \$45.00.

Corporal Benjamin Townes

The cost to attempt service on this unavailable witness is fully taxable in the amount of \$15.00.

Witness and Mileage Fees

Plaintiffs request taxation of the \$40.00 witness fee paid to John E. Herko. This sum is fully taxable pursuant to 28 U.S.C. §1821. Additionally, Mr. Herko's travel costs in the amount of \$36.08 (96.2 miles traveled at \$.375 per mile) are fully taxable. See 28 U.S.C. §1821.

Docket Fee

Plaintiffs request taxation for the cost of an attorney's docket fee in the amount of \$20.00. The fee is fully taxable. See 28 U.S.C. §1923(a).

Conclusion

Based on the foregoing, the following costs will be assessed to the Defendants as set forth below:

Depositions

Dr. Miller (video)	\$212.00
John James Christy	\$189.00
Cpl. Benjamin Townes, Jr.	\$210.00
TFC Robert Fraley	\$185.00
John Edward Herko	\$105.00

Nancy Cline	\$160.00
Josh Cline	\$132.50
Subtotal	\$1193.50
Process Service Fees	\$ 105.00
Witness Fees	\$ 40.00
Mileage Fees	\$ 36.08
Docket Fees	\$ 20.00
Total	\$1,394.58

Accordingly, costs are awarded to Plaintiffs in the amount of \$1,394.58.

DATED this 18th day of May, 2004.

_____/s/_____
Frances E. Kessler
Chief Deputy Clerk